

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Mercep, et al.

Serial No.: 10/595,939

Examiner: Jarrell, N.

Filing Date: 11 August 2006

Art Unit: 1624

For: 1-AZA-2-OXA-Dibenzo(e,h)Azulenes and Their Use for the Treatment of Central Nervous System Diseases

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

Responsive to the Office Action electronically delivered 13 May 2008, please amend and reconsider the instant application in light of the following amendments and remarks.

The Office has required restriction among the pending claims as follows:

Group 1, claim(s) 1-22, drawn to compounds of formula I, compositions comprising the same, and a method of using the same compound wherein damage, disorder, or disease is caused by trauma or a brain stroke.

Group II, claim(s) 1-22, drawn to compounds of formula I, compositions comprising the same, and a method of using the same compound wherein damage, disorder, or disease is caused by a neurodegenerative disorder.

Group III, claim(s) 1-22, drawn to compounds of formula I, compositions comprising the same, and a method of using the same compound wherein damage, disorder, or disease is caused by a cardiovascular disease.

Group IV, claim(s) 1-22, drawn to compounds of formula I, compositions comprising the same and a method of using the same compound wherein damage, disorder, or disease is caused by thrombosis.

Group V, claim(s) 1-22, drawn to compounds of formula I, compositions comprising the same compound wherein damage, disorder, or disease is caused by infarct.

Group VI, claim(s) 1-22, drawn to compounds of formula I, compositions comprising the same, and a method of using the same compound wherein damage, disorder, or disease is caused by gastrointestinal disorder.

Applicants respectfully request an alternative restriction/election. Applicants note that the Office has made restriction based on the conditions recited in claim 21. Applicants respectfully request that they be given the opportunity to select one or more conditions recited in claim 20. Specifically, Applicants request to begin prosecution by electing:

Alternative Group 1, claim(s) 1-22, drawn to compounds of formula I, compositions comprising the same, and a method of using the same compound wherein damage, disorder, or disease is anxiety.

If the Office refuses Applicants request to redefine the restriction, then Applicants elect without traverse Group II (claims 1-22), drawn to compounds of formula I, compositions comprising the same, and a method of using the same compound wherein damage, disorder, or disease is caused by a neurodegenerative disorder. Applicants reserve the right to file one or more divisional applications to the non-elected subject matter.

The Office has also required election of species of active ingredient represented in the instant specification. Applicant elects Dimethyl-[3-(2-oxa-8-thia-1-aza-dibenzo[e,h]azulen-3-ylmethoxy)-propyl]-amine or pharmaceutically acceptable salt or solvate thereof. The compound is specifically disclosed as example 7 of the specification. All pending claims encompass the elected species.

Applicant believes that no fees are due in connection with the filing of this paper other than those specifically authorized herewith. However, should any other fees be deemed necessary to effect the timely filing of this paper, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 07-1392. The Examiner is invited to contact the undersigned at (919) 483-8160, to discuss this case, if desired.

Respectfully submitted,



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Date: July 14 2008
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